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OBSERVATIONS

ON THE

PRESENT CONVENTION

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OBSERVATIONS

ON THE

Present Convention, &c.



HE better to judge of the Merits of the present Convention with *Spain*, it will be necessary to take a summary View of the Situation of our Affairs with respect to that Nation for some Time past ; that, by recalling to our Memory the Grievances we have labour'd under, we may the easier determine how far we are to expect them to be removed by these Stipulations, we have undertaken to examine.

To attempt a Recital of all the Indignities, we have suffered for many Years past from this insolent Nation, in a Time of full

B

Peace,

Peace, on our Side, were an endless Task; let it suffice to remind the Reader (since they must have been strangely inattentive to publick Affairs, to whom these Facts are not familiar) that after pillaging our Merchants without even the Shadow of a Pretext; insulting our Men of War, and robbing, in their View, the Convoys committed to their Guard; after treating the poor Sailors, who became their Prisoners, with Barbarities unknown to civiliz'd Nations, even in the Fury of their fiercest Wars; after adding Mockery to Oppression, and deriding their mangled Captives with the Mummery of an *Havannah* Trial; and when Representations have been made in *Europe* of the Injustice of these Proceedings, deluding them a second time with pretended Orders to their Governours abroad for Restitution, which those Governours were at the same time directed to pay no Regard to; after these, and a thousand other Instances of their Tyranny and Cruelty, had been often complain'd of, often negotiated about, often promised to be redressed, and those Promises as often evaded; the Spirit of the Nation was at last inflamed to that Degree, that the *West-India* Merchants petitioning for Relief last Sessions, they were seconded by the Clamours of every Rank of People of all Parties throughout the Kingdom: Nor was the Legislature less touched with
a due

a due Resentment at these Enormities of the *Spanish* Nation ; the *House of Commons*, after having maturely examined the Complaints of the Merchants, did resolve, “ That our undoubted Right to a free Navigation in the Seas of *America* had been greatly interrupted by the *Spaniards*, under Pretences altogether groundless and unwarrantable ; that many unjust Seizures and Captures had been made, and great Depredations committed by the *Spaniards*, attended with many Instances of unheard-of Cruelty and Barbarity, &c.” And an Address was presented to his Majesty, humbly beseeching him to use his Royal Endeavours with his Catholic Majesty to obtain effectual Relief for his injured Subjects, &c. and to assure his Majesty, that in case his Royal and friendly Instances for Justice, and for the future Security of that Navigation and Commerce, which his People have an undoubted Right to by Treaties and the Law of Nations, should not be able to procure from the Equity and Friendship of the King of *Spain* such Satisfaction as his Majesty may reasonably expect from a good and faithful Ally, that House would effectually support his Majesty in taking such Measures as Honour and Justice shall make it necessary for his Majesty to pursue.”

The *House of Lords* too did in their Resolutions assert “ Our undoubted Right to na-

“ vigate in the *American* Seas, to and from
 “ any Part of his Majesty’s Dominions, &c.”
 And did also declare, “ That the searching
 “ of our Ships on the open Seas, under Pre-
 “ tence of their carrying contraband or pro-
 “ hibited Goods, is a Violation and Infrac-
 “ tion of the Treaties subsisting between the
 “ two Crowns:” And did, in their Ad-
 dress, “ assure his Majesty, that in case his
 “ friendly and powerful Instances for pro-
 “ curing Restitution and Reparation to his
 “ injured Subjects, and for the future Secu-
 “ rity of their Trade and Navigation, shall
 “ fail of having their due Effect and Influe-
 “ ence on the Court of *Spain*, and shall not
 “ be able to obtain that real Satisfaction and
 “ Security which his Majesty may in Justice
 “ expect, they would zealously and chear-
 “ fully concur in all such Measures as shall
 “ become necessary for the Support of his
 “ Majesty’s Honour, and the Preservation
 “ of our Navigation and Commerce, and
 “ the common Good of these Kingdoms.”

Upon these Resolutions of the two Houses,
 and their Addresses to his Majesty, and after
 that warm Recommendation of this impor-
 tant Affair to the Throne, by a Gentleman,
 whose Character can leave no room to sus-
 pect him capable of varying from his Sen-
 timents, deliver’d with so becoming a Zeal,
 on so solemn an Occasion, the Publick were
 full of Expectation of what the Summer
 would

would produce ; they were the rather persuaded to hope for a sudden Period to their Grievances from the Behaviour of the Minister, during the Debates on this Subject ; for he had taken the whole Weight of procuring us Redress upon himself, and was pleased to ask the House with what Face he could appear next Sessions in that Place, if in the mean time effectual Measures were not taken for our Relief.

It was generally believ'd, that the only Method of reducing *Spain* to Reason was first to make her feel our Power, 'for our Negotiations with her had been so often fruitless, that from these alone no Success could be expected, and with this View the Parliament had provided for the Expence of an extraordinary Fleet, and had given all possible Assurances that nothing should be wanting on their side in the vigorous Prosecution of this Affair. Two Fleets were accordingly fitted out, one for the *Mediterranean*, and the other for the *West-Indies* ; and after their Departure for their destin'd Stations, a third was arming at home : By this means almost the whole Navy were in Commission ; yet such was the Alacrity of our Sailors on the Hopes, that it would be at last permitted them to take Revenge on their inhuman Enemies, that Numbers enter'd themselves voluntarily, with a Readiness

ness unknown on any past Occasion. All was now in Motion, and every Step prognosticated a new Scene of Affairs to be at hand, in which our former Supineness would be amply atoned for: And so firmly was this believ'd, that those, who capable of discerning the Causes of our former Timidity, and knowing those Causes still to subsist, did therefore conclude this to be but an Ostentation of War, being fully persuaded, that an Inaction would attend all these extraordinary Preparations, which would but serve to increase the Insolence of our Enemies, and our own Shame; those, I say, who from their Reflections on our past Conduct, did thus surely predict our future Behaviour, could scarcely at any time declare their Sentiments, but they were censured as Men, who from their personal Hatred to those in Power were resolved to disbelieve, in spite of the most undoubted Evidence, all such of their Measures as should have any Claim to common Sense or common Honesty.

At length, in the Month of *August*, a Stop was put to our Armament at home, and it was reported that a Peace was agreed on between us and *Spain*, which would answer all the good Purposes we had proposed to ourselves from a War; but as about the same time we were inform'd of the Inaction
of

of our Fleets both in the *Mediterranean* and in *America*, and as particular Circumstances had occur'd, which convinced all impartial Men, that tho' the Admirals had set Sail at a Time, when the Pretences of those in Power to act vigorously were the strongest, and the Faith and Expectation of the People the highest, they had yet carried with them from hence no Orders to behave offensively, the Confidence of the Publick was by this means converted into Indignation, since they were satisfied that Terms concluded with *Spain*, after that Nation had been convinced we intended not to attack her, could not be such as the Greatness of our past Injuries and our future Security required.

However, from that time, to the Publication of the *Present Convention*, we have been amused with different Reports relating to this Negotiation; sometimes we were told it was completed, then again particular Articles were controverted; sometimes we were flatter'd that *Spain* had disclaim'd all future Visiting or Searching of our Ships without Restriction, then it was to be permitted them only within a certain Distance of their own Coast; at other times we were told, that all Searching was to cease till certain Regulations were made by future Commissaries, who, we were at the same time told,

told, would perpetuate our Exemption by never agreeing.

In such Uncertainty did this Affair continue, till the Meeting of the present Parliament, who were also prorogued for a Fortnight, in Expectation of its final Determination ; at last the long expected Courier arrives, the Ratifications are exchanged, and the whole is said to be compleated ; and it was immediately rumour'd abroad, and afterward asserted by the Minister himself in the House, to be the most beneficial and satisfactory Treaty that had at any time been made by this Nation ; it was particularly asserted, that it was impossible to change any one Stipulation, contain'd in it, into a Shape more advantageous to ourselves ; and that it so fully answer'd all the Declarations of Parliament, and the reasonable Expectations of the Publick, that the most virulent Malecontent would never be able to form a single Exception against it.

As this *Convention* is now publish'd, and in every one's Hand, I shall examine how far it merits these lavish Encomiums, and how well it is suited to procure us that Reparation for our former Affronts, and that Security for our future Commerce, which we have been so long flattered with, and
which

which we have spent such immense Sums in pursuit of.

This *Convention* was preceded by a Declaration made in the Name of the King of *Spain*; which, as is therein asserted, was delivered by the Consent of our Minister.

It contains a very extraordinary Condition, which his Catholick Majesty insists on, as a Preliminary to his signing of the *Convention*; and which we, on our Side, by afterwards accepting of his Signature, do evidently acquiesce in. The Form of it is as follows:

“ *D O N Sebastian de la Quadra*, Coun-
 “ fellow and First Secretary of State
 “ of his Catholick Majesty, and his Mini-
 “ ster-Plenipotentiary for the Convention
 “ which is Treating with the King of *Eng-*
 “ *land*, by Order of his Sovereign, and
 “ in Consequence of the repeated Memo-
 “ rials and Conferences that have passed
 “ with Don *Benjamin Keen*, Minister-Ple-
 “ nipotentiary of his *Britannick* Majesty;
 “ and having agreed with reciprocal Ac-
 “ cord, that the present Declaration shall
 “ be made as the Essential and Precise
 “ Means to overcome the so much debated
 “ Disputes; and in order that the said
 “ Convention may be sign’d, does declare
 “ in due Form, That his Catholick Majesty
 C “ reserves

“ reserves to himself, in its full Force, the
 “ Right of being able to suspend the *Assiento*
 “ of *Negroes*, and of dispatching the ne-
 “ cessary Orders for the Execution thereof,
 “ in case the Company does not subject
 “ herself to pay, within a short Term, the
 “ Sixty-eight Thousand Pounds which she
 “ has confessed to be owing on the Duty
 “ of *Negroes*, according to the Regulation
 “ of 52 *d. per Dollar*, and on the Profits
 “ of the Ship *Royal Caroline* ; and likewise
 “ declares, that under the Validity and
 “ Force of this Protest, the signing of the
 “ said Convention may be proceeded on,
 “ and in no other Manner. Wherefore,
 “ upon this firm Supposition, and that it
 “ may not be eluded, on any Motive or
 “ Pretext whatsoever, his Catholick Maje-
 “ sty has been induced thereto.

Pardo, Jan. 10, 1739.

The better to understand the Unreasona-
 bleness of this supposed Right the King of
Spain has here reserved to himself, it will
 be proper to give a short Narration of this
 whole Affair.

The King of *Spain*, on our Rupture with
 that Crown, in the Year 1718, seized all
 the Effects belonging to the *South-Sea Com-*
 pany,

pany, that were to be found in any Part of his Dominions. These Seizures, according to the Valuation of the *Spanish* Tribunals, as appears by authentic Accounts, transmitted from thence, verified and attested by the proper Officers belonging to those Courts, amounted to about a Million of Dollars, or near 225,000 *l.* Sterling.

And these Accounts being made up in the *Spanish* Offices, the Effects are estimated only at the low Price that they sold for in their clandestine Auctions, and are also loaded with most exorbitant Charges, such as Warehouse-room, and Commission; nay, tho' there never was any considerable Part of these Seizures delivered, yet they are also charged with a certain Sum, for the Commission of their future Delivery; and the Million of Dollars is the neat Ballance, after all these extravagant Deductions are allowed.

In the Treaty made with *Spain*, in the Year 1721, his Catholick Majesty engages, in the strongest Manner, to repay to the *South-Sea* Company the Value of these Confiscations, and in consequence of this Stipulation, many Orders, and reiterated Orders were issued to several Chambers of his Treasury, commanding, in the most express Terms, the Payment of these Sums thus

certified by his own Officers, to be due on this Account.

But however, by some Juggle betwixt him and his Treasury, all that was ever received, amounted to but a Trifle, tho' many of the Orders enjoined the Payment, under *Pain of his severest Displeasure*.

In the Year 1727 *Spain* laid Siege to *Gibraltar*, and did again seize every thing belonging to the *South-Sea* Company, that she could lay hold of: And did again, in the same Year, promise in the Treaty then made, to restore not only these new Seizures, but also those of the Year 1718.

This new Seizure, as stated by the *Spaniards* themselves, in the same Manner we have described above, appears, by what Accounts have been already procured from their Tribunals, to amount to about half a Million of Dollars, or above 112,000 *l.* Sterling; but many Offices refuse to give any Information of what Confiscations have passed through their Hands; so that it is generally believed, the Whole of this second Seizure cannot be less than the first.

In Consequence of the Treaty of 1727, in which we have said *Spain* promised to repay the Whole of the two Seizures, Or-
ders

ders were again issued by his Catholick Majesty to his Treasuries for the Disbursement of the Company, but with as little Success as before ; those to whom the Orders were directed, always pretending they had no Money.

This is the present State of the Debt due from *Spain* to the *South-Sea* Company on the Account of these Confiscations (for no new Engagements relating to them have since been enter'd into) and by this it appears, that according to Accounts testified by his Catholick Majesty's proper Officers, there has been converted to his own Use, from the Amount of the Sales of the *South-Sea* Company's Effects, above a Million and half of Dollars (more accurately 1,521,000) that is, above three hundred and forty thousand Pounds Sterling ; all which his said Catholick Majesty has solemnly promised, on the Word and Faith of a King, to make good to the Company, and has often issued his Royal Orders accordingly, which however to this Day have been always unluckily eluded.

And it must be remember'd, that these Confiscations were made contrary to the express Tenour of the *Affiento* Contract ; for in that Contract it is stipulated, that whatever Differences may arise between the two
Crowns,

Crowns, the Company shall be always allowed eighteen Months to remove their Effects in.

But there are other Demands on the King of *Spain* made by the Company, that tho' not so formally avowed by him, are yet such as cannot with any Face of Justice be denied them, such as the Expences they have incurred by the frequent Refusal of their annual Ship, for by this means they have been obliged to pay considerable Sums for the Salaries of their Officers and Servants whom they had no Use for.

Of this kind too is their Claim on the King of *Spain*, for one fourth Part of their Losses sustained in Trade, from the Beginning of the Company to this Day.

For it must be remember'd, that his Catholick Majesty is, by the *Affiento* Contract, one fourth Part Sharer in all the Trade carried on by the Company, and is to be allowed one fourth Part of their Profits, if any such arise; otherwise he is to furnish his fourth Part of their Losses.

Now the Trade of this Company, by reason of the Interruptions on the Side of *Spain*, has been a very disadvantageous one to the Company, the two last Ships
being

being the only ones on which any Profit has been made.

This being the State of Affairs between *Spain* and the Company, let us now examine his Catholick Majesty's Claim to the immediate Payment of the Sum of 68,000 *l.* Sterling.

Shortly after the Arrival in *England* of the *Caroline*, the *South-Sea* Company's last annual Ship, Sir *Thomas Geraldino*, the *Spanish* Minister here, claimed from that Company his Master's Share of the Profits on that Voyage; for it must be remember'd, that, by the *Affiento* Contract, the King of *Spain* is interest'd one fourth Part in the Trade carried on in Consequence of that Contract. He also demanded, that there should be advanced to the King of *Spain* his Master, an Allowance of two *per Cent.* on all the Duties that the Company had ever paid for Goods enter'd in the *Spanish* Ports since their first Erection, on Pretence, that these Duties had hitherto been always paid in light Dollars, whereas he assured them they ought to have been paid in heavy Dollars; and therefore the Difference of these Species of Money being about two *per Cent.* he insisted that the Whole of this supposed Deficiency, computed on all the Company
had

had ever paid from the first Beginning of their Trade, should be immediately granted him.

To the first of these Articles, it was answered, That tho' a small Sum had been once allowed to his Master on a like Pre-
tence, yet as it was known to have been brought about by a particular Interest, and with Views in no wise to be justified, he must not expect them to be influenced by a Precedent so universally condemned ; for as by the Whole of their Trade, from the first Beginning of the Company, they had been very great Losers ; and as by the Treaty on which he founded this Right, the King of *Spain* was to bear his Part of their Losses as well as to share in their Gains, it was highly unreasonable for him to claim his Part of one profitable Article, till he had first paid his Proportion of their preceeding Losses, which would amount to a Sum much exceeding his present Demand ; and the Exorbitancy of this Pretension appeared still more glaring, when they considered that the Losses they had undergone, were the Effects of the Violence and Injustice of the *Spanish* Court.

To the second Article it was observed, That as the Value of the Dollars they had paid their Duties in, were very well known
to

to those who had Orders to receive them (they being one Species of the common Money of *Spain*) and as the Persons, to whom the Company paid these Duties, had never once questioned the Justness of their Payments for twenty Years together, but had always given them regular Discharges, the insisting on a Retrospect, after so long a Term, was a very unwarrantable Proceeding, since if the Payments were not of the full Value (a Point far from being evident) the Deficiency ought to be imputed to the Negligence of their own People; for the Company having acted without Fraud in this Affair, thought themselves, by the acquiescing of the Officers, and the Length of Time, free from all Claims of this Nature.

It was also added, that were these Pretensions altogether reasonable, and founded on the most indisputable Contracts, yet all that *Spain* could with any Appearance of Justice pretend to, would be the annihilating by this Means such a Part of her avowed Debt to the Company, as these Sums together amounted to. But that requiring, as her Minister did, that these Demands of her's should be immediately paid, while her avowed Debt to the Company, amounting to so much a larger Sum remained unsatisfied, was a Proceeding so arbitrary and

D

tyrannical,

tyrannical, that the Directors could not submit to, without the strongest Imputation of abandoning the Rights of their Constituents.

Notwithstanding the Cogency of these Reasons, the Company at last, influenced by Motives, whose Validity we will not here discuss, did agree to allow these Demands, and to pay to the King of *Spain* the Amount of them, upon Condition, that he would previously grant to them certain Cédulas or Orders, by them particularly specified, some of them being such as they thought would secure and facilitate to them the speedy Payment of their Debt from *Spain*, one of them being a Draught for the Sum, that we have seen the King of *Spain* to have confessed to be due to the Company, on three successive Chambers of his Treasury, with a Stipulation, that if it remained unsatisfied by all three, then 30,000 *l. per Annum* to be deducted out of the Duty paid on Negroes, till the Whole was sunk; and others relating to the more effectual and regular sending out of their annual Ship, which in Contempt of the Faith of Treaties had been so frequently interrupted by the *Spaniards*; but these Terms were never agreed to on the Part of *Spain*, but continued long the
Subject

Subject of Litigation between the Minister of that Court and the Company.

In this Condition this Transaction rested for some Time, the Cedula not being granted by *Spain*, and consequently these Claims still liable to be disputed. But in *December* last, Sir *Thomas Geraldino* demands of the Court of Directors, that the Sum of 68,000 *l.* said by him to be the Amount of the above-mentioned Articles, should not only be allowed to his Master as an equitable Demand, but should also be immediately paid by the Company without any Condition; declaring at the same time, that if this Demand was not complied with, his Master would suspend their Trade to his Dominions, and deprive them of all the Rights they were possess'd of by virtue of the most solemn Treaties, and Acts of Parliament pass'd in consequence of them, and the King himself doing them the Honour of becoming their Governour.

It was at last perceiv'd, that all Condescension only increased the Haughtiness of this Minister, and encouraged him in framing Claims still more exorbitant; and therefore, tho' some of the Gentlemen in the Direction were even now for submitting,

influenc'd by Motives not difficult to guess at; yet it was resolv'd by a Majority not to comply with a Demand so avowedly unreasonable.

This is the Truth, and the whole Truth relating to the Sum of 68,000 *l.* said by the Protest now before us to be confess'd by the Company to be owing to the King of *Spain*.

But that Mr. *Keen*, our Minister, commission'd to procure us Redress for our Grievances, should *agree with reciprocal Accord* in this palpable Untruth, is so strange, that were it not for his own Letter to the Company, in which he confesses himself to have been privy to this whole Transaction, one would have suspected the Whole to have been an Imposture. And from hence we may judge how little Probability there is that our past Injuries should be redress'd, or our future Injuries prevented by any thing contain'd in the present Convention, since the King of *Spain* is so little disposed to depart from that Inclination to molest us, which has been so conspicuous in his Conduct for many Years past, that he on the contrary even refuses to treat with us, but on condition of being indulged in an Act of Injustice, the most singular and undis-

guis'd

guis'd that ever was insisted on in a Negotiation between two States, pretending to treat with each other on a Foot of Equality.

Let us take a short Review of this Subject: The King of *Spain* confesses himself indebted to the *South-Sea* Company, in a Sum above 300,000 *l.* and gives them Orders on his Treasury for Payment; but the Treasury being found to be out of Cash, they are put off to a longer Term: He in the mean-time creates an imaginary Claim on the Company of 68,000 *l.* not contented with having this fictitious Demand (for such we have seen it to be) allowed in Part of Payment, he insists upon having it immediately discharged, leaving his own Debt to the Company entire.

And our Minister, who is at the same time treating with *Spain* for Satisfaction for our past Injuries, and Security from her future Violence, does agree with *reciprocal Accord* with the *Spanish* Minister, that the better to facilitate this desirable Purpose, a Declaration shall be made on the Part of his Catholick Majesty, by which he reserves to himself the Right to suspend the *Affiento* Trade, tho' granted to the Company by the most solemn Treaties, if the Company shall refuse to comply

ply with this unparallel'd Demand of 68,000 l. *Don Sebastian de la Quadra* also declares at the same time, that *under the Validity and Force of this Protest, the signing of the Convention may be proceeded on, and no otherwise*: And since this Protest has not been departed from, and we have since accepted of his Catholick Majesty's Signature, it is obvious, that we have by this means allowed this almost incredible Proceeding; and have establish'd it as a Preliminary to a Convention; which we have been told was so compleatly adapted to the Security of all our just Rights, that it was not possible to change any single Stipulation contain'd in it, to a Form more favourable to our Interests.

If any Circumstance could add to the Indignation that must arise in every impartial Breast at this Behaviour of the *Spanish* Court, it would be the Reasons urged by their Minister here in Defence of it; for they are such as were never intended to convince those they are directed to, but of that kind that lawless Power sometimes deigns to assign for its Operations; to those unhappy Wretches who are necessitated by the Influence of superior Force, to acquiesce in them as conclusive.

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His principal Reason, if I am rightly inform'd, is, that his Master, in his Transactions with the Company, is to be consider'd in a double Capacity, both as a Sovereign, and as a Merchant interested in their Trade; that the Debt to the Company is due from him as a Sovereign, since it arises from his former Seizures in that Capacity; and therefore this Debt being a publick Affair relating to him as a King, it must be refer'd to the future Negotiation, and is to be regulated by the Plenipotentiaries; whereas his Demand of 68,000*l.* he makes as a private Merchant in Partnership with them, and consequently that ought to be satisfied without Delay. Indeed, when his Catholick Majesty shall think proper to comply with the Terms of his Partnership, and shall make good to the Company his Proportion of their former Losses, I believe the Payment of the present Sum will be no longer disputed with him.

Having dispatch'd this remarkable Protest of his Catholick Majesty, we shall now enter on the Convention itself; and that no Suspicion of Misrepresenting may take place, I shall insert it literally from the Copy printed by Authority.

Convention

Convention between the Crowns of Great-Britain and Spain concluded at the Pardo, on the 14th of January, 1739, N. S.

“ **W** Hereas Differences have arisen, of
 “ late Years, between the two Crowns
 “ of *Great-Britain* and *Spain*, on account
 “ of the Visiting, Searching, and Taking
 “ of Vessels, the Seizing of Effects, the
 “ Regulating of Limits, and other Grievances
 “ alledg’d on each Side, as well in
 “ the *West-Indies*, as elsewhere; which
 “ Differences are so serious, and of such a
 “ Nature, that if Care be not taken to put
 “ an entire Stop to them for the present,
 “ and to prevent them for the future, they
 “ might occasion an open Rupture between
 “ the said Crowns: For this Reason
 “ His Majesty the King of *Great-Britain*,
 “ and His Majesty the King of *Spain*,
 “ having nothing so much at heart, as
 “ to preserve and corroborate the good
 “ Correspondence which has so happily subsisted,
 “ have thought proper to grant their
 “ full Powers, viz. his *Britannick* Majesty
 “ to *Benjamin Keen*, Esq; his Minister Plenipotentiary
 “ to his Catholick Majesty,
 “ and his Catholick Majesty to *Don Sebastian de la Quadra*, Knight of the
 “ Order of *St. James*, Counsellor of State,
 “ and

“ and first Secretary of State, and of the
 “ Dispatches ; who, after previously pro-
 “ ducing their full Powers, having con-
 “ ferr’d together, have agreed upon the
 “ following Articles.”

I shall observe, upon this Preamble, that when upon the Behaviour of the *Spaniards* to us for so many Years, in spite of all our Remonstrances, we were at last resolved to pursue vigorous Measures, and fitted out our Fleets with this supposed View ; the only honourable Means of entering into a Negotiation with them was, that they themselves should request it, and should at the same time distinctly promise us that Satisfaction, which their arbitrary Proceedings had given us a Right to insist on: For as we had made a Shew of War, and had seemingly determined, since Justice had been so often refused us, to have recourse to Arms, we could not afterwards apply to that Court in the way of Treaty, without owning our Cowardise, and declaring in effect, that notwithstanding our military Preparations, we dared not to engage in those active Measures, to which we had so confidently pretended.

ARTICLE I.

“ **W**Hereas the ancient Friendship, so
 “ desirable and so necessary for the
 “ reciprocal Interest of both Nations, and
 “ particularly with regard to their Com-
 “ merce, cannot be establish’d upon a last-
 “ ing Foundation, unless Care be taken,
 “ not only to adjust and regulate the Pre-
 “ tensions for reciprocal Reparation of
 “ the Damages already sustain’d, but above
 “ all to find out Means to prevent the
 “ like Causes of Complaint for the fu-
 “ ture, and to remove absolutely, and
 “ for ever, every thing which might give
 “ Occasion thereto : It is agreed to labour
 “ immediately, with all imaginable Ap-
 “ plication and Diligence, to attain so de-
 “ sirable an End ; and for that Purpose
 “ there shall be named on the Part of
 “ their *Britannick* and *Catholick* Majesties
 “ respectively, immediately after the sign-
 “ ing of the present Convention, two Mi-
 “ nisters Plenipotentiaries, who shall meet
 “ at *Madrid* within the Space of six Weeks,
 “ to be reckon’d from the Day of the
 “ Exchange of the Ratifications, there to
 “ confer, and finally regulate the re-
 “ spective Pretensions of the two Crowns,
 “ as well with relation to the Trade and
 “ Navigation in *America* and *Europe*, and
 “ to

“ to the Limits of *Florida* and of *Carolina*,
 “ as concerning other Points, which re-
 “ main likewise to be adjusted ; the whole
 “ according to the Treaties of the Years
 “ 1667, 1670, 1713, 1715, 1721, 1728,
 “ and 1729, including That of the *Affi-*
 “ *ento* of Negroes, and the Convention of
 “ 1716 ; and it is also agreed, that the Ple-
 “ nipotentiaries, so named, shall begin their
 “ Conferences six Weeks after the Exchange
 “ of the Ratifications, and shall finish them
 “ within the Space of eight Months.”

To the Consideration of this Article I
 must premise, that there are some Claims
 so obviously groundless, and so evidently
 tyrannical, that as they can only proceed
 from an uncommon Degree of Arrogance
 in the State that forms them, and a Con-
 fidence in their own superior Power, and
 the defenceless Condition of those they treat
 with, so they can never be received even
 so far, as to be deliberated on by any Na-
 tion, who would not submit, without Blows,
 to the most dreadful Situation that the most
 unsuccessful War can ever reduce them to.

For when such a Demand is made, that
 is conspicuously contrary to all our com-
 mon Opinions of Equity, the Debating
 whether we shall or shall not submit to it,
 is really consulting whether we shall or

shall not be Slaves ; since the being necessitated to submit to the Will of another, however unreasonable, is of all the Circumstances of Slavery the most terrible.

In the foremost Rank of these Pretensions, which have no Foundation but in the Haughtiness and Injustice of those who make them, is that Claim of the *Spaniards* to visit our Ships in the Seas of *America* ; and of a like kind is the Demand made by *Spain* to have *Georgia* surrender'd to her, after it has been near an hundred Years our unquestion'd Property.

Now the entring into any Negotiation with them, till they had expressly and formally disavowed these Insolencies, is a Proceeding that carries with it the keenest Reflections on our Prudence and our Courage.

But to have formed an Agreement with them, signed on both Sides, while it appears that they insist that *Georgia* be left Defenceless, and at the same time refuse to disown this illegal Practice of Searching, is a Piece of Conduct of so extraordinary a kind, that my Reader must furnish me with Words to characterise it.

That

That the *Spanish* Court did refuse, at the Signing of the *Convention*, to disown the Practice of Searching cannot be doubted of, since no one can believe but that our Minister at *Madrid* would have been very well pleased to have got an authentick Renunciation of it inserted in the present Treaty ; which yet he was not able to procure, since nothing of that kind occurs in any Part of it.

But supposing our Exemption from Searching, and our Right to *Georgia*, to have been Points of less Importance, and such as we could with Honour permit to be the Subject of Negotiation, yet the referring them to the future Discussion of Plenipotentiaries, to be examined by the Tenour of past Treaties, can never be defended in Point of Policy.

For our Right to *Georgia*, founded in near an hundred Years uninterrupted Possession, is better than what we could derive from a thousand Treaties, and our Right to an unmolested Navigation, free from all Search and Visiting, is of such a Nature, that, by permitting it to be examined by past Treaties, we render the Proof of it more difficult.

It

It is one of those common Rights of Mankind, which Particulars may indeed forfeit for their Crimes, but of which no innocent Person can be ever justly deprived, the Use of the Seas, for the Purpose of our lawful Traffick, being as indisputable as our Claim to Air, Light or Freedom.

Hence then the referring all the Security of our future Navigation to a distant Negotiation, which is to be regulated by past Treaties, is extremely prejudicial to our Pretensions, since the principal Point in Dispute between us, is what we should have had a Right to, had no Treaty ever subsisted between us, and what an hundred Treaties, tho' formed with that express View, could never justly deprive us of.

It is true, that many of the Treaties here recounted do expressly confirm our Claim, and in none of them can there be found any Article that gives the least reasonable Foundation to the new and tyrannick Practice of Visiting.

But it is also true that *Spain*, by wrested Interpretations and sophistical Distinctions, pretends to find out in these Treaties some Authority for this Proceeding.

Therefore,

Therefore, since our Claims are antecedent to all Compacts, and disintangled from that Obscurity, which frequently attends express Stipulations; the permitting them to be examined as Compacts only, is surely doing an Injury to our Cause, and in great Measure rendering doubtful these our certain and most indubitable Pretensions.

ARTICLE II.

“ **T**HE Regulation of the Limits of
 “ *Florida* and of *Carolina*, which,
 “ according to what has been lately agreed,
 “ was to be decided by Commissaries on
 “ each Side, shall likewise be committed
 “ to the said Plenipotentiaries, to procure a
 “ more solid and effectual Agreement;
 “ and during the Time that the Discussion
 “ of that Affair shall last, Things shall
 “ remain in the aforesaid Territories of
 “ *Florida* and of *Carolina* in the Situation
 “ they are in at present, without increasing
 “ the Fortification there, or taking any
 “ new Posts; and for this Purpose, his
 “ *Britannick* Majesty and his Catholick
 “ Majesty shall cause the necessary Orders
 “ to be dispatched immediately, after the
 “ Signing of the *Convention*.

The

The better to understand how very prejudicial this Article is to our Interests, and how extraordinary a Concession it contains on our Side, it is necessary to take notice, that a large Tract of Land in *South-Carolina* has been purchased with the publick Money, during the present Administration, upon their declaring it to be a Frontier, that by its Situation would very much protect our other Colonies against the Insults of the *Spaniards*, and that would give us great Advantages in a War with that Nation, by reason that all the Treasure transported from *New Spain* to *Europe*, must of necessity pass almost within Sight of its Coast: In Consequence of these their just Allegations, it has been lately planted by this Nation, at a very great Expence; the Parliament having annually, for many Years past, given a considerable Sum for the Encouragement and Support of this new Colony, which in Honour to his present Majesty is denominated *Georgia*. The Inhabitants are many of them Protestants Natives of *Saltsbourg*, and other Catholick Provinces of *Germany*, where, being persecuted by their Governours on account of their Religion, they preferred the Woods of *America*, with the civil and religious Liberty, they thought themselves there secure of under our Government, to all the Endearments

dearments of their native Country. But it seems they are in danger of being once more driven to seek new Habitations; for tho' that Tract of Land, at present call'd *Georgia*, was always conceived to belong to *Carolina*, and in the Planting of this Colony no Suspicion was once entertain'd of its not being our undoubted Property, being granted so long ago as King *Charles* the second's Time, to particular Proprietors from whose Descendants it was lately purchased by the Publick; yet no sooner was it planted and improved, but their *Spanish* Neighbours of *Florida* longed for the Morfel; and the Memorial was accordingly deliver'd to our Court, demanding the Surrender of it, as of Right belonging to the *Spanish* Territories. Now, tho' their Right to this Country is no better grounded, than their Right of Visiting our Ships, yet as, either from their natural Haughtiness, or their Opinion of our Supineness, they have importunately pursued this most exorbitant Claim, it has been thought proper by the Article now under Examination, so far to condescend to them, as to put a Stop to all future Improvements in that Province, and to expose the poor Inhabitants, who have transported themselves thither, under the publick Protection of this Nation, to the Mercy of these their unrelenting Enemies, and to involve

F

volve *Carolina*, which as yet the *Spaniards* have laid no Claim to, in the same Danger.

For it must be remembered, that tho' it is stipulated, that neither Side shall increase their Fortifications, or take any new Posts; yet the whole of this Agreement affects us only. We demand not *Florida* of the *Spaniards*, nor have we any Thoughts of invading it, consequently whether they neglect their Fortifications or increase them, it is to us quite indifferent; and if we had any Views on that Territory, they have been long Masters of the Country, and have probably fortified and possessed all those Places in it, that are any ways necessary for their Security or their Support. Whereas it is of the utmost Importance to us, that our People, who are but newly arrived in those Parts, should be at liberty to increase their Defences, and take all possible Measures for their future Safety, at a Time when the King of *Spain* insists that *Georgia* be delivered up to him, and when many Armaments have been fitted out, at *St. Augustin*, with Views of seizing it: For Invasions from that Quarter have been often threaten'd, and if the Intelligence from thence can be credited, these Threats have been even on the Point of Execution, at least it has been so far believed in *Carolina*,
lina,

lina, that the People have very lately been under Arms, hourly expecting the *Spanish* Fleet to appear in Sight. Now, prohibiting our Colony, who being scarcely settled in their new Habitations, must of course be very much exposed from their Want of Fortifications, their Ignorance of the Country, and that Scarcity of Conveniences which ever must attend the first Planters of an uncultivated Territory ; prohibiting, I say, the Inhabitants under these Circumstances to raise Fortifications, or to establish such Posts as upon Examination appear to them best fitted to defend the Avenues of their Country, is such a Desertion of these poor People, as one would hardly have expected, at the End of a ten Years unsuccessful War ; but this, it seems, is the Stipulation contained in the second Article of a Convention, in which it was said, that not a Sentence would be met with, against which the most hardy Malecontent could even frame the Shadow of an Exception.

But there is another Concession, not less important, which we have just hinted at above, and that is, that tho' *Georgia* only has been as yet demanded of us, by our modest Neighbours, the whole Province of *Carolina* is tied up from increasing its Fortifications: Now it happens, that the Fortifications of *Charles-Town* (the Capital of

that Province, and which it was supposed the *Spaniards* intended to attack last Summer) are very defective, and those few that are on Foot, are in a ruinous Condition, so that it has been lately resolved, on Account of their frequent Alarms from the *Spaniards*, to increase them ; as they seem persuaded, that whenever the Invasion from *St. Augustin* takes place, that Town will be first attack'd : And I have been told, that but just before the signing of this Convention, a considerable Quantity of Artillery and Stores were embarked for that Town, in consequence of that Resolution. Now, considering how little Regard *Spain* has paid to Treaties, for some Years past, it is no extravagant Surmise, that she may have insisted on this Article, to render her future Attempts on *Charles-Town* infallible.

ARTICLE III.

“ **A**FTER having duly considered the
 “ Demands and Pretensions of the two
 “ Crowns, and of their respective Subjects,
 “ for Reparation of the Damages sustained
 “ on each Side, and all Circumstances
 “ which relate to this important Affair ; it
 “ is agreed, that his *Catholick* Majesty shall
 “ cause to be paid to his *Britannick* Majesty
 “ the Sum of Ninety-five thousand
 “ Pounds Sterling for a Ballance, which
 “ has

“ has been admitted as due to the Crown
 “ and the Subjects of *Great-Britain*, after
 “ Deduction made of the Demands of the
 “ Crown and Subjects of *Spain* ; to the End
 “ that the abovementioned Sum, together
 “ with the Amount of what has been ac-
 “ knowledged on the Part of *Great-Bri-*
 “ *tain* to be due to *Spain* on her Demands,
 “ may be employed by his *Britannick* Ma-
 “ jesty for the Satisfaction, Discharge, and
 “ Payment of the Demands of his Subjects
 “ upon the Crown of *Spain* ; it being un-
 “ derstood nevertheless, That it shall not
 “ be pretended, that this reciprocal Dis-
 “ charge extends, or relates to the Accounts
 “ and Differences which subsist, or are to
 “ be settled between the Crown of *Spain*
 “ and the Company of the *Assiento* of Ne-
 “ groes, nor to any particular or private
 “ Contracts that may subsist between either
 “ of the two Crowns or their Ministers
 “ with the Subjects of the other, or between
 “ the Subjects and Subjects of each Nation
 “ respectively ; with Exception however of
 “ all Pretensions of this Class mentioned in
 “ the Plan presented at *Seville* by the Com-
 “ missaries of *Great-Britain*, and included
 “ in the Account lately made out at *Lon-*
 “ *don*, of Damages sustained by the Sub-
 “ jects of the said Crown, and especially
 “ the three Particulars inserted in the said
 “ Plan, and making but one Article in the
 “ Account,

“ Account, amounting to one hundred
 “ nineteen thousand five hundred twelve
 “ Piafters, three Reals and three Quartils
 “ of Plate; and the Subjects on each Side
 “ fhall be entitled, and fhall have Liberty
 “ to have Recourfe to the Laws, or to take
 “ other proper Meafures, for caufing the
 “ abovesaid Engagements to be fulfilled,
 “ in the fame Manner as if this Conven-
 “ tion did not exift.”

In this Article it is declared, that upon
 the making up the Account of Damages
 between the two Crowns (the Affairs of the
South-Sea Company, &c. being excepted)
 the King of *Spain* does acknowledge the
 Sum of 95,000 *l.* to be due from him as a
 Ballance to the King of *Great-Britain*.

As the Particulars of this Account, of
 which the Sum of 95,000 *l.* is faid to be the
 Ballance, have not been yet communicated,
 tho’ often moved for, it is very difficult
 to conjecture, by what Deductions it has
 been brought fo low; for the Demands of
 his *Britannick* Majefty’s Subjects upon the
 Crown of *Spain* are ftated in an Account
 figned *June* 14th, 1738, by Mr. *Stert*, one
 of the Commiffaries, at 343,277 *l. Sterling*.
 And in the fame Account the Demands of
 the King of *Spain* are faid to amount to
 180,000 *l. Sterling*; whence the Ballance
 due

due to *Great-Britain* is there allowed to be 163,277 *l.* Now for what reason 68,277 *l.* is again deducted out of this Sum, and the Ballance thereby reduced to 95,000 *l.* especially after 180,000 *l.* the full Demands of *Spain*, had been previously admitted, is an Enquiry that has hitherto been constantly eluded, tho' the Honour of the Transactors, and the Interest of the Publick in this particular Article, seem to require on this Head the clearest and most explicit Representation.

For as the King of *Spain* agrees to pay 95,000 *l.* for the Ballance due on his Side, which, together with the Sum admitted by the King of *Great-Britain* to be due to *Spain*, is to be applied to make good the Losses of the Merchants, surely every Person interested in those Losses has a Right to be informed how his Account was made up, and to be satisfied in the Nature of those Abatements, that have been admitted against him, to the Lessening of his Claim: In particular, he ought to be told what that Sum amounts to which the King of *Great-Britain* having acknowledged to be due to *Spain* is therefore to make a Part of the Restitution.

But instead of this, we are not even to be acquainted with the Particulars of that
180,000 *l.*

180,000*l.* claimed by *Spain* in Mr. *Stert's* Account, tho' the Publick have exerted all their Speculation, without so much as being able to conjecture from whence it should arise.

Nor are we to be informed what were the Inducements that prevailed with us to abate 68,277*l.* from the Ballance due to us after the whole Claims of *Spain* were allowed.

Nor are the Merchants as yet well instructed in the Amount of that Sum, which, by being allowed to be due to *Spain* by the King of *Great-Britain*, is by his Majesty to be paid to them to compleat the Restitution for their Losses.

I must own, that the abated Sum of 68,277*l.* comes so near to the Sum disputed by the *South-Sea* Company, that it may create some Suspensions of its having a Connection with it; but this cannot surely be the Case; for had this Sum been first allowed to *Spain*, on making up the Account, we could not have expected that his Catholick Majesty should have refused to sign the *Convention* till we had condescended that he should force the Company to pay him a second time.

It

It is indeed said, and with some Confidence, that this Sum of 68,277*l.* is allowed for destroying their Fleet near *Sicily* in the Year 1718; a Transaction, it was conceived, we had long finish'd on our Side. For, not to enter into a Defence of our Behaviour in the Year 1718, tho' it was certainly agreeable to the Treaties then subsisting, we shall only observe, that it was stipulated by the Treaty of *Madrid* in the Year 1721, that whatever Part of their Fleet was in our Possession, should be restor'd to *Spain* in the Condition the Ships were then in; or if any of them were sold, the Money we had received for them was to be allowed. And this was offer'd to be complied with on our Side,* so that it was one of the Articles of Instruction to our Commissaries, appointed to treat with those of *Spain*, to insist that the Treaty of 1721 was fully compleated; whence if it shall appear that the Sum of 68,000*l.* be now allowed to *Spain* on this Consideration, it will thence be evident that ill Usage has obliged us to alter our Opinion; so that what the *Spaniards* had no Pretence to 7 or 8 Years ago, they are now, by the Terrour their Barbarities have since spread amongst us, to be allowed a Sum for three times greater than the Whole of what was granted them by the Treaty of 1721 would amount to.

* Vide fifth Article of *Instruction to our Commissaries.*

But it was doubtless imagined, that the King of *Spain* agreeing to pay 95,000*l.* for the Benefit of our injured Merchants, would palliate all these Concessions, and would so strongly dazzle the Eyes of the Publick, that the Blemishes of this *Convention* would not be pry'd into: We will therefore more particularly examine this favourite Stipulation.

The principal View, proposed by the vigorous Resolutions of both *Houses of Parliament*, seconded by the united Voice of the whole Nation, was not merely procuring a pecuniary Satisfaction for the Losses of our injured Merchants: No, that tho' a very desirable Circumstance can only be consider'd in a secondary Light, our Expectations were fix'd on Points of a more important Nature; such was the retrieving of our national Honour, and wiping off, by our Resolution and Courage, those Blemishes that the unrevenged and almost unresented Robberies and Arrogances of *Spain*, had long fix'd on our publick Measures; such too was the procuring from that Nation an explicit and formal Disavowal of all future Pretences to search, visit, or in any wise molest the *British* Ships in the Course of their Voyage, from any one Part of his Majesty's Dominions to another; such also
was

was the bringing to exemplary Punishment, those *Spanish* Captains and Crews, who, contrary to the Usage of civiliz'd Nations, even in the midst of War, had exercised upon their poor Captives those shocking Barbarities that so often occur in the Narrations of our Losses.

These, and such as these, were the general Views last Spring; if they are evaded, or if the succeeding in them is, by the present *Convention*, render'd more doubtful and difficult than before, no pecuniary Atonement can avail us, or even deceive us, since it requires no Art to discover, that if we become a Laughing-stock amongst the Nations, submit to be treated like a conquer'd People, and sacrifice all the Security of our future Commerce, no Terms procur'd at this Expence can deserve a Moment's Attention.

We have in this Reasoning hitherto supposed, that the King of *Spain* will punctually pay this Sum of 95,000 *l.* for the Benefit of the injured Merchants, but he must be a great Stranger to the Proceedings of a *Spanish* Treasury, that considers this even as a probable Event. The Means of eluding this Payment, is pretty obviously contained in his Catholick Majesty's Protest, and in the next Article of this *Convention*.

The Reader must have observed, that there is an affected Obscurity in the Protest, which makes it something difficult to determine, if upon the Refusal of the *South-Sea* Company to pay the Sum demanded of them, the whole *Convention* shall not be void. Now it will scarcely be denied me, but that *Spain* will wrest an Obscurity of its own forming to its own Purpose; either then the *South-Sea* Company will advance 68,000 of the 95,000 *l.* or the Promise of Payment on the Part of *Spain* will be by their Refusal invalidated.

By this Means then, there remains but 27,000 *l.* to be furnished by his Catholick Majesty, which if he pleases to pay, he may afterwards with Truth declare, that he has not granted us in this *Convention* a single Dollar for the Losses our Merchants have suffered from the unjust Captures made by his *Guarda Costas*.

For one Article of our Demands consisting of the Sum of 119,512 Dollars, making within a Trifle this very Sum of 27,000 *l.* Sterling, does not arise from any hostile Seizures, but is a Sum due to some of our Merchants by private Contract, for having supplied his Catholick Majesty's Troops with Stores, &c.

And

And this Article of 119,512 Dollars, notwithstanding the general Exception in this *Convention* of all such Claims on private Contract, is yet particularly stipulated to be annihilated by the present Ballance.

Indeed, the fixing the Ballance due from *Spain*, at 95,000*l.* which is about 150*l.* short of the two Sums, one of them demanded from the *South-Sea* Company, and the other the Sum of 119,512 Dollars, due on private Contract, seems to have been done with a View of satisfying the *Spanish Punto* (of which we have of late been so extremely tender) and preventing the Imputation on his Catholick Majesty of having owned by this Agreement, that his *Guarda Costas* had at any time been guilty of Irregularities.

From hence then it appears, that in this Article, the only one in the whole *Convention*, that has even the most distant Appearance of Condescension on the Side of *Spain*, His Catholick Majesty has been most minutely careful, that there should not be acknowledged even by his Payments, that his Vessels had ever acted illegally in their Depredations on our Merchants.

And of this Circumspection, we shall hereafter find still more astonishing Instances,

stances, with regard to the Stipulations in the second separate Article relating to the *Santa Theresa*, and the *Succefs*.

Besides, the actual Payment of the remaining Sum of 27,000 *l.* is no ways necessary, since it is easily supplied by a proper Comment on the succeeding Article, to the Consideration of which we now proceed.

ARTICLE IV.

“ **T**HE Value of the Ship called the
 “ *Woolball*, which was taken and
 “ carried to the Port of *Campechy* in the
 “ Year 1732, the *Loyal Charles*, the *Dis-*
 “ *patch*, the *George* and the *Prince William*,
 “ which were carried to the *Havana* in the
 “ Year 1737, and the *St. James* to *Porto*
 “ *Rico*, in the same Year, having been in-
 “ cluded in the Valuation that has been
 “ made of the Demands of the Subjects of
 “ *Great-Britain*, as also several others that
 “ were taken before; if it happens, that
 “ in consequence of the Orders that have
 “ been dispatched by the Court of *Spain*
 “ for the Restitution of them, Part or
 “ the Whole of them have been restored,
 “ the Sums so received shall be deducted
 “ from the 95,000 *l.* Sterling, which is to
 “ be paid by the Court of *Spain* according
 “ to what is above stipulated: It being
 “ however

“ however understood, that the Payment
 “ of the 95,000 *l.* Sterling shall not be, for
 “ that Reason, in any Manner delayed;
 “ saving that what may have been previo-
 “ usly received shall be restored.”

This Article shews us, how great an Attention is given by the *Spanish* Court to its minutest Interests, and how ready we are to indulge them. For not contented to have acquiesced in a Claim on the *South-Sea* Company, the most exorbitant surely that was ever heard of, to have put our most valuable and indisputable Rights into Negotiation; not contented with having made such a Stipulation with respect to *Georgia*, as will probably deliver that Province and *Carolina* also into their Hands; not contented to have allowed them, in the settling the Ballance between us, above 68,000 *l.* more than their utmost Demands; not content, I say, with these Concessions, we by this Article agree to account for the trifling Sums that may have been received as Part of the Value of the Ship *Woolball*, *Loyal Charles*, &c.

But further, if we examine the Conduct of *Spain* with respect to her Conventions, Treaties, &c. for some Years past, we may easily predict that this Article will, according to the *Spanish* Method of Accounts, be insisted on as compleating, with the
 Sum

Sum of 68,000 *l.* demanded of the *South-Sea* Company, the whole Sum stipulated by this Convention to be due from *Spain*; for the Assurances given in this Article, that the Payment of that Sum shall not for this Reason be delayed, are not stronger than those that in the Course of our Transactions, with that Court, we have seen almost annually eluded.

The fifth Article contains nothing essential; we shall, however, insert it for Form's sake, and thence proceed to the Consideration of the two separate Articles.

ARTICLE V.

“ **T**HE present Convention shall be
 “ approved and ratified by his *Brit-*
 “ *tannick* Majesty and by his *Catholick* Ma-
 “ jesty; and the Ratifications thereof shall
 “ be delivered and exchanged at *London*
 “ within the Space of six Weeks, or sooner,
 “ if it can be done, to be reckoned from
 “ the Day of the signing.

“ In witness whereof, We the under-
 “ written Ministers Plenipotentiaries of his
 “ *Britannick* Majesty and of his *Catholick*
 “ Majesty, by virtue of our full Powers
 “ have signed the present Convention, and
 “ caused the Seal of our Arms to be affixed
 “ thereto.

“ thereto. Done at the *Pardo* the 14th
 “ Day of *January* 1739.

First Separate Article.

“ **W** Hereas it has been agreed by the
 “ first Article of the Convention,
 “ signed this Day, between the Ministers
 “ Plenipotentiaries of *Great-Britain* and
 “ *Spain*, that there shall be named on the
 “ Part of their *Britannick* and *Catholick*
 “ Majesties respectively, immediately after
 “ the signing the abovesaid Convention,
 “ two Ministers Plenipotentiaries, who shall
 “ meet at *Madrid* within the Space of six
 “ Weeks, to be reckoned from the Day of
 “ the Exchange of the Ratifications; their
 “ said Majesties, to the End that no Time
 “ may be lost in removing, by a solemn
 “ Treaty, which is to be concluded for
 “ that Purpose, all Cause of Complaint for
 “ the future, and in establishing thereby
 “ a perfect good Understanding, and a
 “ lasting Friendship, between the two
 “ Crowns, have named, and do by these
 “ Presents name, *viz.* his *Britannick* Ma-
 “ jesty, *Benjamin Keen*, Esq; his said Ma-
 “ jesty’s Minister Plenipotentiary to his *Ca-*
 “ *tholick* Majesty, and *Abram Castres*,
 “ Esq; his said *Britannick* Majesty’s Con-
 “ sul General at the Court of his *Catholick*
 “ Majesty, his Plenipotentiaries for that
 “ H Purpose;

“ Purpose; and his *Catholick* Majesty, *Don*
 “ *Joseph de la Quintana*, his Counsellour
 “ in the supreme Council of the *Indies*, and
 “ *Don Stephen Joseph de Abaria*, Knight
 “ of the Order of *Calatrava*, Counsellour
 “ in the same Council, and Superintendant
 “ of the Chamber of Accounts; who shall
 “ be immediately instructed to begin the
 “ Conferences: And whereas it has been
 “ agreed by the 3d Article of the Conven-
 “ tion signed this Day, that the Sum of
 “ Ninety five thousand Pounds *Sterling* is
 “ due, on the Part of *Spain*, as a Ballance
 “ to the Crown and Subjects of *Great-Bri-*
 “ *tain*, after Deduction made of the De-
 “ mands of the Crown and Subjects of
 “ *Spain*, his *Catholick* Majesty shall cause
 “ to be payed at *London*, within the Term
 “ of four Months, to be reckoned from
 “ the Day of the Exchange of the Ratifi-
 “ cations, or sooner if it be possible, in
 “ Money, the abovementioned Sum of
 “ Ninety five thousand Pounds *Sterling*, to
 “ such Persons as shall be authorized, on
 “ the Part of his *Britannick* Majesty, to re-
 “ ceive it.

“ This separate Article shall have the
 “ same Force as if it was inserted Word
 “ for Word in the Convention signed this
 “ Day; it shall be ratified in the same
 “ Manner, and the Ratifications thereof
 “ shall

“ shall be exchanged at the same time as
 “ those of the said Convention.

“ In witness whereof, We the under-
 “ written Ministers, Plenipotentiaries of
 “ his *Britannick* Majesty, and of his *Ca-*
 “ *tholick* Majesty, by virtue of our full
 “ Powers, have signed this separate Ar-
 “ ticle, and have caused the Seals of our
 “ Arms to be affixed thereto. Done at
 “ the *Pardo*, the 14th of *January*, 1739.

The only Stipulation worth Notice in this Article is the King of *Spain's* agreeing to pay, within a certain Term of four Months, the Sum settled in the Third Article of this Convention. As I have shewn in the Remarks on that Article, that the Payment of this Sum would in no wise answer the great Ends proposed by the present Negotiation, and that at the same time all Expectation of its being paid is extremely chimerical ; I shall only take Notice, that the End of the Term here assign'd for Payment does nearly fall in with the usual Time of the Breaking up of Parliament. Pass we now to the second and last separate Article, which indeed, next to the King of *Spain's* Protest, is of all the present Stipulations the most astonishing.

Second Separate Article.

“ **W**Hereas the underwritten Ministers
 “ Plenipotentiaries of their *Britan-*
 “ *nick* and *Catholick* Majesties have this
 “ Day signed, by virtue of full Powers
 “ from the Kings their Masters for that
 “ Purpose, a Convention for settling and
 “ adjusting all the Demands, on each Side,
 “ of the Crowns of *Great-Britain* and
 “ *Spain*, on Account of Seizures made,
 “ Ships taken, &c. and for the Payment
 “ of a Ballance that is thereby due to the
 “ Crown of *Great-Britain*; it is declared,
 “ that the Ship called the *Succeſs*, which
 “ was taken on the 14th Day of *April*,
 “ 1738, as ſhe was coming out from the
 “ Island of *Antigua*, by a *Spaniſh* Guarda
 “ Coaſta, and carried to *Porto Rico*, is not
 “ comprehended in the aforeſaid Conven-
 “ tion; and his Catholick Maſteſty pro-
 “ miſes, that the ſaid Ship and its Cargo
 “ ſhall be forthwith reſtored, or the juſt Value
 “ thereof, to the lawful Owners; provided
 “ that, previous to the Reſtitution of the ſaid
 “ Ship the *Succeſs*, the Perſon or Perſons
 “ intereſted therein do give Security at *Lon-*
 “ *don* to the Satisfaction of *Don Thomas*
 “ *Geraldino*, his Catholick Maſteſty's Miniſter
 “ Plenipotentiary, to abide by what ſhall
 “ be decided thereupon by the Miniſters
 “ Pleni-

“ Plenipotentiaries of their said Majesties;
 “ that have been named for finally settling,
 “ according to the Treaties, the Disputes
 “ which remain to be adjusted between the
 “ Two Crowns ; and his Catholick Ma-
 “ jesty agrees, as far as shall depend upon
 “ him, that the abovementioned Ship the
 “ *Success* shall be referred to the Examina-
 “ tion and Decision of the Plenipotentia-
 “ ries ; his *Britannick* Majesty promises
 “ likewise to refer, as far as shall depend
 “ upon him, to the Decision of the Pleni-
 “ potentiaries, the Brigantine *Santa The-
 “ resa*, seized in the Port of *Dublin* in
 “ *Ireland*, in the Year 1735. And the said
 “ underwritten Ministers Plenipotentiaries
 “ declare by these Presents, that the Third
 “ Article of the Convention, signed this
 “ Day, does not extend, nor shall be con-
 “ strued to extend to any Ships or Effects
 “ that may have been taken or seized since
 “ the 10th Day of *December* 1737, or may
 “ be hereafter taken or seized ; in which
 “ Cases Justice shall be done according to
 “ the Treaties, as if the aforesaid Conven-
 “ tion had not been made ; it being how-
 “ ever understood, that this relates only to
 “ the Indemnification and Satisfaction to
 “ be made for the Effects seized, or Prizes
 “ taken, but that the Decision of the
 “ Cases, which may happen, in order to
 “ remove all Pretext for Dispute, is to be
 “ referred

“ referred to the Plenipotentiaries, to be
 “ determined by them according to the
 “ Treaties.

“ This separate Article shall have the
 “ same Force as if it was inserted Word
 “ for Word in the Convention signed this
 “ Day : It shall be ratified in the same
 “ Manner, and the Ratifications thereof
 “ shall be exchanged at the same Time as
 “ those of the said Convention.

“ In witness whereof, We the under-
 “ written Ministers Plenipotentiaries of his
 “ *Britannick* Majesty, and of his *Catholick*
 “ Majesty, by virtue of our full Powers,
 “ have signed the present separate Article,
 “ and have caused the Seals of our Arms
 “ to be affixed thereto. Done at the *Pardo*
 “ *January* the 14th, 1739.”

By this Article the Right to the *Success*,
 confessed to be taken as she was coming out
 of *Antigua*, an hundred Leagues from any
Spanish Settlement, is referred to the Deci-
 sion of the Ministers Plenipotentiaries.
 Amazing ! Shall we thus tamely dispute,
 whether a Ship seized in full Peace, almost
 in sight of our own Shore, was justly or un-
 justly taken ? Had *Spain* demanded to have
 placed Garrisons of her own in *Bristol* and
Liverpool, to inspect all outward-bound
 Vessels,

Vessels, and to prevent all Communication between those Ports and the *Spanish* Dominions in *America* ; I should almost as soon have expected even such a Claim as this to have been referred to future Negotiation, as the Right to a Ship taken under these Circumstances.

The Concession in this Stipulation, on the Side of *Spain*, is as eminent for its Arrogance, as that on our side is for its Condescension : For the King of *Spain* avows, on his Part, that his *Guarda Costa* has taken a *British* Vessel coming out of our own Settlements, in Time of full Peace, and insists at the same time that its Property is dubious, and can only be determin'd by the Plenipotentiaries.

If the Property of this Ship be consider'd as doubtful by *Spain*, and allow'd to be such by our Ministers, what shall we from henceforwards be able to call our own ?

The *Santa Theresa* here referred on the side of his *Britannick* Majesty, is another Instance that those of our Possessions only are secure that the *Spaniards* shall not think it worth while to claim.

The *Santa Theresa* was originally a *British* Vessel, but was taken at Sea by a
Spanish

Spanish Privateer, in as shameless a manner as the *Success* last mentioned : She was afterwards fitted out by the *Spaniards*, as a Merchant-man, and trading in the Port of *Dublin* was known by her old Masters who seized her. Now, who would have imagin'd, that when she was by this Means once more in our Possession, the Negotiations of *Spain* should a second time have wrested her out of our Hands ?

For, had our Seizure of her been as illegal as the *Spanish* Seizure, yet it being before the Year 1737, she was included in the Third Article of the present Convention, and consequently all Claim to her from *Spain* is thereby released.

But neither the Exemption arising from the express Words of that Article, nor the much more equitable Exemption that she was intitled to from the Justice of her Seizure, could protect her from being referred as Matter of Debate to the Ministers Plenipotentiaries. After this, we must thank the Moderation of *Spain*, that our Right to *Ireland* (which his *Catholick* Majesty has formerly made Pretensions to) is not likewise proposed to be examined in the future Negotiation.

We

We have now gone thro' each Article of this Convention, and have made appear that instead of asserting our just Rights, and containing such Acknowledgments on the Part of *Spain*, as our past Sufferings from that Nation authorise us to demand, it contains a Reference of such of our Rights to Negotiation, as our Honour should have told us we ought never to permit to be question'd, and a Chain of Concessions to the most unwarranted and exorbitant Claims of that haughty Court. In particular,

After the Spirit of the Nation had been raised by a Sense of the unparallel'd Indignities of the *Spaniards*, to demand Justice for their past, and Security for their future Behaviour ; after fitting out three Fleets, and amusing us with all the Appearance and all the Expence of vigorous Measures.

We are told that *Spain*, terrified by our Arming, would grant us all we could even wish or hope for at the End of the most successful War.

We enter into a Negotiation with them, but the *Spanish* Minister makes a Declaration, in the Name of his Master, that he will not treat with us, if he be not indulg'd in forcing the *South-Sea* Company to pay
I him

him 68,000 *l.* tho' he has acknowledg'd, that he owes them upwards of 300,000 *l.*

This Protest is so far from breaking off our Treaty, that our Minister is said to *have agreed with reciprocal Accord, that this Declaration should be made as the essential and precise Means to overcome the so much debated Disputes.*

Thus a Negotiation, pretended to be formed for the Reparation of our past Wrongs, and the asserting our future Security, is begun by the Establishment of a greater Piece of Injustice than any before complain'd of.

However, under this Declaration, and our Consent to it, the present Convention is compleated and signed ; and that Behaviour, which from a State that had never before offended us, we ought rather to have risqu'd twenty Years War, than have submitted to, we readily acquiesce in, tho' proceeding from a Nation, whom by reason of a long Series of Injuries, it was dishonourable for us to treat with but at her own Request, and upon the most explicit Promises of doing us Justice.

The

The Stipulations of this Convention, on either Side, are perfectly agreeable to the Spirit shewn on this Incident by each Party.

On the Side of *Spain*, Injustice and Arrogance ; on our Side, Meekness and Condescension.

Our most important Rights, which we derive from no Treaties, but from God and Nature ; Rights, that hitherto no independent Nation ever permitted to be disputed them : These Rights, I say, are referred to future Negotiation, and are to be settled by Plenipotentiaries.

Thus *Don Joseph de la Quintana*, and *Don Joseph de Abaria*, are to settle with Mr. *Keen* and Mr. *Castres*, whether or no our Ships, pursuing the Purpose of their lawful Commerce between one Part of his Majesty's Dominions and another, are not to be visited, searched, and taken by the *Spanish Guarda Costa's* in the Seas of *America*.

They are also to determine, if *Georgia*, which has been in our Possession for near an hundred Years, without any Claim on the Part of *Spain*, does not belong to His
Catholick

Catholick Majesty, and ought not to be immediately surrender'd to him.

Tho' in all Probability the tying up the Hands of the Inhabitants from fortifying themselves, as is done by this Convention, will bring on a speedier Decision of this Affair, and will at the same time determine the Fate of *Carolina*.

These Gentlemen are also to debate, whether the Ship *Success*, taken in Time of Peace, coming out of our own Settlements, above an hundred Leagues from any *Spanish* Territory, be or be not a legal Capture; and whether the *Santa Theresa*, a *British* Ship, in the Hands of its original Owners, ought not to be returned to those *Spaniards*, who once had her in their Possession, by stealing her.

These, my Countrymen, are the Claims of *Spain*, which, on a Supposition of their disputable Nature, are by this Convention confes'd to be proper Objects of a future Negotiation.

F I N I S.



